REGULATION REVIEW COMMITTEE

PARLIAMENT OF NEW SOUTH WALES

REPORT UPON REGULATIONS

- Centennial Park and Moore Park Trust Regulation 1993
- Dental Technicians Registration Regulation 1993
- Fair Trading (Product Information Standards) Regulation 1992
- Justices (General) Regulation 1992
- Landlord and Tenant (Rental Bonds) Act 1977 - Regulation Land Tax Management Regulation 1992
- Museum of Applied Arts & Sciences Regulation 1992
- Property Stock and Business Agents (General) Regulation 1993
- Valuers Registration Regulation 1993
- Water Board (Trade Waste) Regulation 1989

Report No. 29
October 1994

TABLE OF CONTENTS

REGULATION REVIEW COMMITTEE

MEMBERS

Mr A.J. Cruickshank, M.P. (Chairman)
The Hon. S.B. Mutch, M.A., LL.B., M.L.C. (Vice Chairman)
Mr M. Iemma, B.Ec., M.P.
Dr Elizabeth Kernohan, M.Sc. Agr., Ph.D.
Mr J.S.P. Kinross, LL.B., B.Comm., A.C.A., F.T.I.A., M.P.
Mr C.J. Knowles, M.P.
The Hon P.F. O'Grady, M.L.C.
Mr W.B. Rixon, M.P.
Mr K.M. Yeadon, B.A., M.P.

STAFF

Mr J.B. Jefferis, B.A. LL.B., Director
Mr G.S. Hogg, Dip.Law (B.A.B.), Dip.Crim., Legal Officer
Mr J.H. Donohoe, B.A., Dip. F.H.S., J.P., Committee Clerk
Ms Y. Larkin, B.A., Research Officer
Ms N.N. O'Connor, Assistant Committee Officer

The Regulation Review Committee was established under the Regulation Review Act 1987. A principal function of it is to consider all regulations while they are subject to disallowance by Parliament.

In examining a regulation the Committee is required to consider whether the special attention of Parliament should be drawn to it on any ground, including any of the following :-

(a) that the regulation trespasses unduly on personal rights and liberties;

(b) that the regulation may have an adverse impact on the business community;

(c) that the regulation may not have been within the general objects of the legislation under which it was made;

(d) that the regulation may not accord with the spirit of the legislation under which it was made, even though it may have been legally made;

(e) that the objective of the regulation could have been achieved by alternative and more effective means;

(f) that the regulation duplicates, overlaps or conflicts with any other regulation or Act;

(g) that the form or intention of the regulation calls for elucidation; or

(h) that any of the requirements of sections 4, 5 and 6 of the Subordinate Legislation Act 1989, or of the Guidelines and requirements in Schedules 1 and 2 to that Act, appear not to have been complied with, to the extent that they were applicable in relation to the regulation.

The Committee may, as a consequence of its examination of a regulation, make such reports and recommendations to each House of Parliament as it thinks desirable including reports setting out its opinion that a regulation or portion of a regulation ought to be disallowed and the grounds on which it has formed that opinion.

DESCRIPTION	CENTENNIAL PARK AND MOORE PARK TRUST ACT 1983 - REGULATION (Centennial Park and Moore Park Trust Regulation 1993)
GAZETTE REF.	17/12/1993 p.7390
COMMENCEMENT	20/12/1993
MINISTER	for Environment
OBJECT	The object of this Regulation is to repeal the Centennial Park Regulation 1985 and to replace it with this Regulation which deals with the lands vested in the Centennial Park and Moore Park Trust Community Consultative Committee. This Regulation provides for the management, use and regulation of the Trust lands and for the issue of penalty notices in relation to offences occurring on those lands. The Regulation also makes provision as to the number of members of the Centennial Park and Moore Park Trust Community Consultative Committee, their appointment, terms of office and removal, the filling of vacancies and the appointment of acting members. This Regulation is made under the Centennial Park and Moore Park Trust Act 1983, including section 7A (community consultation), section 22 (the general regulation making power) and section 24 (which deals with penalty notices). This RIS has been satisfactorily prepared.
OBJECTIVES	The objectives of the Regulation are set out in the RIS as follows: • protect the natural and cultural environment within the Trust lands; • provide appropriate recreation opportunities for visitors; • regulate increasing community demands to use the Trust lands; • create an easy and effective social environment for visitors; • enhance the safety of visitors to Trust lands.
OPTIONS	The alternative options are set out on pages 9 to 11 of the RIS: **Option 1:** Replace the existing regulation with a new regulation; **Option 2:** Educational and interpretative approach to achieving desired behaviour outcomes from Park visitors; **Option 3:** Rely on other legislation and self regulation;
IMPACT ASSESSMENT	The costs and benefits of the Regulation are dealt with separately to the other two alternative options. However the costs and benefits of Options 1 and 2 have been quantified and these have been discounted over the 5 years of the life of the proposed regulation.

"The Trust's preference is for Option 1. Of all options, Option 1 offers the greatest direct benefits. This option anticipates increased compliance with improved enforcement measures, provides the most effective option for achieving the indirect benefits associated with environmental and social amenity and recreation opportunities. It is also likely to be the most effective in achieving safety measures which are necessary to protect Park visitors in their use of Trust lands and minimise the exposure of the Trust to claims for compensation.

With the loss of the major direct benefits associated with Option 1, Option 2 involves a net cost of $267,552 over five years. Option 3 places heavy reliance on external legislation which brings substantial difficulties for Rangers enforcement of these Acts and would not be comprehensive enough to achieve stated objectives fully. The second limb of Option 3, self regulation, relies heavily on individuals good will and responsibility in their use of the Trust lands. Experience has demonstrated this cannot be expected to be forthcoming from all users of Trust lands."

CONSULTATION PROGRAMME

This was summarised on page 12 of the RIS as follows:

"Copies of the draft regulation have been forwarded to the following bodies and organisations for consideration and comment.

The Centennial Park and Moore Park Trust. (The Trust is responsible for the management of Trust lands and its membership is drawn from the wider community).

Kindred Government organisations:
- Zoological Parks Board of New South Wales
- Royal Botanic Gardens
- Bicentennial Park

Surrounding Local Government Councils:
- South Sydney City Council
- Randwick City Council
- Waverley Municipal Council
- Woollahra Municipal Council

Community Consultation forums:
- Centennial Park and Moore Park Sports Council
- Centennial Park and Moore Park Residents Representative Forum

The proposal will be advertised in the Sydney Morning Herald.

Two submissions were received on the RIS, one related to restraint on dogs in the Parks the other to cleaning up after sporting events. In the former case the Trust was declared an administration under the Dog Act and in the latter case the recommended amendments were made to require the advance payment of bond which can be forfeited in the event of a breach of condition.

CONCLUSION

The RIS has satisfactorily assessed the impact of the Regulation and the submissions were appropriately taken into account when the regulation was made.

No. 1927A

REGULATION REVIEW ACT 1987
S. 9(1) Consideration by Committee of Regulations

DESCRIPTION	DENTAL TECHNICIANS REGISTRATION ACT 1975 - REGULATION (Dental Technicians Registration Regulation 1993)
GAZETTE REF.	27-8-1993 p. 4902
COMMENCEMENT	1-9-1993
MINISTER	for Health
OBJECTS	The Committee considered this regulation on 17 March 1994. The object of this Regulation is to repeal and remake the Dental Technicians Registration Regulation in connection with the staged repeal of Subordinate Legislation under the Subordinate Legislation Act 1989. The Committee was concerned with the lack of consistency between this regulation and the Dentists Regulation 1991. In item 3.1.1 on page 5 of the Regulatory Impact Statement (RIS) the cleanliness of premises is discussed. It is said that the objective of protecting dental patients from infection caused by unclean premises used for technical work cannot be guaranteed without a specific regulation. It said that reliance could not be placed on an industrial code. It concluded the cleanliness of premises must be made a legal requirement by way of regulation. These comments in the RIS concerning the inappropriateness of an industry code for technicians are at odds with the position under the Dentists Act where such a code operates. Given there has been recent criticism of the standard of cleanliness of drills and other equipment used by dentists, the requirement under the Technicians Regulation would appear to be inconsistent with the position under the Dentists Act where the matter of hygiene is left to the individual dentist or the relevant association to govern. The RIS states that the enforcement of minimum standards for the cleanliness of premises by means of Clause 9 of the regulation has been successful. This clause is believed to have had some deterrent affect and the Board has investigated only one complaint regarding conduct of this nature in recent years. Prosecution of the prosthetist concerned was not required as he complied immediately with the inspector's directions to

bring the cleanliness of the premises up to standard. If this is the case then the same logic should apply in the case of Dentists.

The cost/benefit analysis in the RIS with respect to cleanliness of premises in item 4.1.2, states:

"...regulation by the profession of the cleanliness of premises is not expected to result in any change in cleaning habits or cost to the vast majority of prosthetists or technicians. It is considered part of the professional responsibility of prosthetists and technicians to uphold high standards of cleanliness regardless of any regulation on the matter. Accordingly, cleaning costs are incurred because of this professional responsibility and not because of compliance with regulation.

However without a legal obligation, isolated instances of individual technicians and prosthetists lowering their standards of cleanliness may impose significant costs on patients, their family members and the health-care sector. This will occur if patients exposed to contaminated materials suffer pain and illness and require care by family members or treatment by the health sector. Furthermore, dis-benefits will accrue to patients (and possibly family members) who as a result of the illness suffer a reduced quality of life."

The main public response on the consultation program was to question the basis for removing advertising restrictions on dental prosthetists without any regard to advertising by dentists and prosthodontists. The main concern of most of the submissions were the restrictions on advertising that have been eliminated by the regulation and inconsistency with the practice under the Dentists Regulation.

While advertising requirements under the Dental Technicians Regulation are much freer than those under the Dentists Regulation the converse is true of the hygiene requirements. There dentists are allowed to set their own standards for cleanliness while for dental technicians these are set under the Regulation itself. This inconsistent approach should have been examined in the RIS because the precedent set by the Dentists Regulation 1991 in these matters is a relevant and perhaps the most relevant option for consideration.

The Committee sought the Minister's advice on these matters.

On 18 May 1994 the Minister for Health advised as follows:

On 18 May 1994 the Minister for Health advised as follows:

"I refer to your letter regarding the Dental Technicians Registration Regulation 1993 (DTR Regulation) in which you express concern that the cleanliness and advertising provisions of this Regulation are inconsistent with those of the Dentists Regulation 1991. I have referred the matter to the Department which has provided the following advice.

The Regulatory Impact Statement (RIS) for the DTR Regulation describes in some detail the previous history and perceived need for the retention of a cleanliness of premises clause. Essentially it is required to protect public health in isolated instances of dental technicians and prosthetists operating in unhygienic conditions. Without such a clause the Dental Technicians Registration Board would have no sanction or ability to take action against the practitioner concerned. Section 19 of the Dental Technicians Registration Act 1975 only enables the Board to hold a disciplinary inquiry into cases where the practitioner has been convicted of an offence, is a drunkard or addict, is not of good character or is inform and unfit to practise. The cleanliness of premises is not covered by any of these criteria.

By comparison a cleanliness clause in a Regulation under the Dentists Act 1989 was considered unnecessary because the Dental Board has the ability to inquire into a dentist carrying out work in an unhygienic situation on the basis of "professional misconduct." This is defined by section 5(1) of the Dentists Act to include conduct demonstrating "a lack of adequate knowledge...or care", and could clearly include a lack of attention to the cleanliness of premises such as could compromise the health of patients.

The Department advises me that it took care to consider alternatives to regulation of this issue, particularly the new Local Government Act (refer page 5 of the RIS). However it was unclear how effectively dental technicians and prosthetists would be covered by this legislation. As there were no other existing sanctions, it was considered prudent to give the Dental Technicians Registration Board a general power in the DTR Regulation for the enforcement of the cleanliness of premises. Nevertheless, as discussed on pages 11-12 of the RIS, the cleanliness clause of the 1993 DTR Regulation is much less prescriptive than that of the previous Regulation.

On the issue of infection transmission during dental procedures, recent events have highlighted

the need for a legal requirement to address the potential for infection transmission during minor surgical procedures. Such matters require separate treatment from the more general hygiene issue of the cleanliness of premises. To this end I recently introduced into the Parliament a series of amendments to the Medical Practice Act 1992, Dentists Act 1989 and Dental Technicians Registration Act 1975 to enable stricter controls to be placed on compliance with appropriate guidelines on infection control during medical, surgical, dental and related procedures.

As regards the advertising provisions of the DTR and Dentists Regulations, both embody significantly fewer restrictions than those of their predecessors. However, since the DTR Regulation was reviewed two years after the Dentists Regulation, it reflects the current trend to remove unnecessary advertising restrictions from health professionals. This trend, which commenced with the Medical Practice Regulation 1993, is aimed at protecting the consumer rather than maintaining restrictive trade practices. The opportunity to re-consider the advertising provisions of the current Dentists Regulation will arise prior to its lapsing in 1996.

I trust the above has addressed your concerns. If you require any further information in this regard please contact Louise Robertson of the Department's Executive Support Unit on 391 9333."

The explanatory note to the Health Legislation Bill 1994 states as follows:

"Infection control standards: The amendments to the Dental Technicians Registration Act 1975, items (b)-(d) of the amendments to the Dentists Act 1989 and the amendments to the Medical Practice Act 1992 enable regulations to be made concerning the standards for controlling infection that must be followed by dental prosthetists, dentists and medical practitioners. This regulation-making power is designed, in particular, to enhance protection of patients against HIV infection and other infectious diseases, and it may involve the adoption of published health standards and guidelines about infection control.

Section 42(1) of the Interpretation Act 1987 enables regulations to apply, adopt or incorporate the provisions of publications. However, section 69 of that Act provides that such publications can only be applied, adopted or incorporated as in force on a particular day or on the day the regulation took effect unless the Act concerned provides for application, adoption or incorporation as in force from time to time. The amendments

enable the regulations under the Acts to adopt publications (such as national health standards) as in force from time to time.

The explanatory note indicates that the hygiene controls will be implemented by regulations adopting guidelines.

CONCLUSION

The Committee has asked the Minister to forward to it details of any regulations that are subsequently made including the assessment of the proposals conducted for them under schedule 1 of the Subordinate Legislation Act.

DESCRIPTION	FAIR TRADING ACT 1987 - REGULATION (Relating to Fair Trading (Product Information Standards) Regulation 1992)
GAZETTE REF.	21-8-92 p. 6178
COMMENCEMENT	1-9-92
MINISTER	for Consumer Affairs
OBJECT	The object of which is to replace and consolidate 7 sets of regulations into one pursuant to the staged repeal provisions of the Subordinate Legislation Act 1989.

The Regulatory Impact Statement for the regulation stated that one of its objectives is to maintain existing standards until the Commonwealth/State Consumer Product Advisory Committee (CSCPAC) reviews all Commonwealth/State standards in line with the mutual recognition principle which is to occur by March 1993.

The Committee considered that if new State and Commonwealth legislation will be introduced by March 1993, there would need to be very compelling reasons to introduce this consolidated set of regulations for such a short term. The reasons for such a course were not stated in the RIS. This must give rise to the assumption that the present regulations are a waste of time and money. The Subordinate Legislation Act provides for just such cases where legislation is undergoing some other review with a definite timetable.

Section 11 states that the Governor may, by order, postpone for one year the staged repeal of a regulation. This postponement can be made on five occasions if necessary. On the timetable indicated in the RIS, however, only one postponement to 1st September 1993 would have been necessary in this case.

The options stated in the RIS are to consolidate and remake or to repeal the regulations. Consideration of the options has again been curtailed by the federal review. Options other than consolidation and remaking have been dismissed in advance of the impact assessment because they might anticipate the outcome of the federal review.

A quantified cost benefit analysis has was not undertaken in the Impact Assessment which is a departure from Schedule 2(1)(c) and (d) of the Subordinate Legislation Act.

In the RIS consolidation of the existing 7 separate regulations into one and remaking them is seen as the best interim measure pending the federal review. However this benefit must be set against the costs of remaking the regulations and preparing the RIS when it is due for repeal within 6 months after its publication.

The least cost and greatest net benefit option would clearly have been postponement under section 11 but of course it did not require a RIS to determine this.

The Committee informed the Minister that it believed that because the new legislation is due for introduction by March 1993 the better course would have been to seek an order from the Governor under section 11 of the Subordinate Legislation Act postponing the repeal of these regulations for one year. Nevertheless as the new regulation and its RIS were produced, a properly quantified cost benefit analysis should have been prepared in accordance with Schedule 2 of the Subordinate Legislation Act.

MINISTER'S FIRST RESPONSE

The Hon. Kerry Chikarovski, MP, Minister for Consumer Affairs and Assistant Minister for Education advised as follows on 11th February 1992:

"*I refer to your letter of 18 January 1993 concerning the Fair Trading (Product Information Standards) Regulation 1992, a consolidation of regulations which were due to be repealed on 1 September 1992 in accordance with the staged repeal provisions of the Subordinate Legislation Act (the SLA).*

The Committee suggests that a better course of action than remaking the regulations would have been to seek a postponement of repeal in accordance with s.11 of the SLA. This possibility was raised with the Parliamentary Counsel's Office and verbal advice received that postponements would only be granted in the most exceptional circumstances, such as where there is a firm proposal for legislative change approved by Cabinet, which would directly affect the regulation due for repeal.

In the case of the regulations under discussion, although the Heads of Government had agreed to enact mutual recognition legislation with a commencement date of March 1993, the process of developing national standards to replace existing State regulations was expected to take much longer. In view of the uncertainty, it was considered that a request for postponement would not meet the stringent criteria and my predecessor approved the drafting of a Regulatory Impact Statement.

The Committee also suggests that a properly quantified cost benefit analysis should have been

prepared in accordance with Schedule 2 of the SLA. I note that s.5 of the SLA requires the responsible Minister to ensure that, as far as it is reasonably practicable, a regulatory impact statement complying with Schedule 2 is prepared before a Principal Statutory Rule is made. In the circumstances, I do not think it would have been either practical or cost-effective to undertake a full cost benefit analysis. The remaking of the consolidated regulation is an interim measure and the more appropriate time for the conduct of a cost benefit analysis will be when the new national standards are proposed."

The Minister's letter indicated that the statement in the RIS on the timetable for review was wrong.

The process of developing national standards is said to be expected to take "much longer". Whether this was known at the time the RIS was prepared is not clear from the Minister's letter. In any event the Minister still regards this as an 'interim' regulation which didn't warrant full assessment. In the context of the Subordinate Legislation Act, a regulation only has a life span of 5 years before automatic repeal under the sunset provision of the Act. In that context a maximum postponement of repeal for the then maximum of two successive years is more than reasonable. A regulation that is subject to some external federal review, as in the present case, cannot be said to be an 'interim' regulation if the review is expected to take longer than the maximum period of postponement.

It is a rare case indeed where the enabling Act for a particular regulation is not subject to some ongoing review at departmental level. On this basis, if the Minister's view is accepted, every regulation could be justified as being 'interim' and the Subordinate Legislation Act could be effectively set aside.

On 1st April 1993 the Committee wrote to the Minister advising him of the above and said *"the proper assessment of this regulation cannot await the outcome of the indefinite federal review. As such I would request you to prepare a proper RIS, at the conclusion of 1 year of the operation of the new regulation, taking into account data of its actual costs and benefits in that year and projected forward for the remaining life of the regulation."*

MINISTER'S SECOND RESPONSE

The Hon. Wendy Machin, MP, Minister for Consumer Affairs and Minister Assisting Minister for Roads wrote to the Committee on 25th June 1993 in the following terms:

"I refer to your letter of 1 April 1993 to my predecessor, the Hon K A Chikarovski MP, concerning the Fair Trading (Product Information Standards) Regulation) 1992.

Before I address the issue of a Regulatory Impact Statement, I have to say I am puzzled by your comment that the Committee notes Mrs Chikarovski's advice "that the statement in the RIS on the timetable for review was wrong and that the process of developing national standards was expected to take much longer."

I am advised that the RIS prepared by the Department of Consumer Affairs stated (in part 3 - Objectives of Regulatory Proposal) that:

> *"The mutual recognition principle is an agreement whereby legislation will be introduced in each State or Territory, followed by the Commonwealth, prior to March 1993, to eliminate regulatory impediments to a national market in goods and services.*
>
> *CSCPAC, through its Working Group on mutual recognition, will develop firm recommendations in respect of each of the proposed standards and bans identified for review over the next twelve months" (ie the period August 1992 to August 1993).*

In correspondence dated 11 February 1993 your Committee was advised of a similar timetable: that mutual recognition would commence in March 1993 but development of national standards would take much longer. It may be that your Committee gained the impression that the review of standards would be completed in time for the commencement of mutual recognition. That was never the case and the RIS did not state that the review would be completed by March 1993. The twelve months quoted in the RIS was the best information available from the Commonwealth/State Consumer Products Advisory Committee (CSCPAC) at the time.

As far as the preparation of a Regulatory Impact Statement is concerned, my Department is currently seeking advice from the Parliamentary Counsel's Office about the application of item 4 in Schedule 3 of the Subordinate Legislation Act to regulations made under the Fair Trading Act 1987. I will advise you of the result of that action when it is concluded."

M I N I S T E R ' S FURTHER ADVICE

On 11th March 1994 the Minister advised the outcome of the Parliamentary Counsel's review as follows:

> "I refer to my letter of 25 June 1993 concerning the Fair Trading (Product Information Standards) Regulation

1992, in which I undertook to advise you of the result of discussions between the Department of Consumer Affairs and Parliamentary Counsel with respect to the meaning of item 4 in Schedule 3 of the Subordinate Legislation Act 1989.

The Parliamentary Counsel advised that regulations made for the purposes of the provisions of the Fair Trading Act 1987 are entitled to a certificate under section 6(1)(a) of the Subordinate Legislation Act 1989 if:

a) the are made under provisions of the Fair Trading Act 1987 that are substantially uniform or complementary with provisions of the Trade Practices Act 1974, and
b) they are substantially uniform or complementary with Commonwealth regulations made for the purposes of those provisions.

He concluded that the Fair Trading (Product Information Standards) Regulation 1992 met the requirements of subparagraph (a). Furthermore, the requirements of subparagraph (b) would be satisfied if the regulation embodied national standards developed by the Commonwealth/State Consumer Products Advisory Committee for approval by the Ministerial Council on Consumer Affairs.

Schedule 7 of the Regulation (Care Labelling of Certain Goods) meets both criteria. Schedule 4 (Textile Products) is affected by current work on a national standard. Schedule 3 (Millet Brooms) is redundant and I have approved its repeal.

The Department of Consumer Affairs will prepare a Regulatory Impact Statement during 1994 for Schedules 1 (Leather Goods), 2 (Bedding and Upholstered Furniture), 5 (Toys) and 6 (Footwear)."

CONCLUSION

The Parliamentary Counsel's Opinion is too late for this regulation as it was published in 1992.

If the Minister had taken the appropriate course under the Subordinate Legislation Act 1989 in the first place the Committee's action would have been unnecessary. This shows all the more need for an appropriate training programme as recommended by the Committee in its 23rd Report.

No. 1648A

REGULATION REVIEW ACT 1987

DESCRIPTION	Justices Act 1902 - REGULATION (Relating to Justices (General) Regulation 1992
GAZETTE REF.	28.8.92 p. 6226
MINISTER	Justice
OBJECT	The purpose of this regulation is to repeal and remake the Justices Act (General) Regulations in connection with the staged repeal of subordinate legislation under Part 3 of the Subordinate Legislation Act 1989. The Regulatory Impact Statement assesses each substantive clause of the regulation, The defect in such an approach is that it produces no overall assessment of the regulation or its alternatives. Similarly, there is no quantification of the costs and benefits of the regulation generally. The existing cost to the community needs to be justified and the administration costs established if the regulation is to be retained. The Committee wrote to the Minister indicating that the Regulatory Impact Statement was defective in that there was no proper quantification of the costs and benefits of the preferred option and its alternatives. The Committee requested the preparation of a proper Regulatory Impact Statement at the end of one year's operation of the regulation so that actual costs and benefits could be identified.
M I N I S T E R ' S RESPONSE	On 19th July 1993 the Attorney General and Minister for Justice responded as follows: *"I refer to your letter of 5 February 1993, addressed to my predecessor, in which you raised concerns in respect of the Regulatory Impact Statement (RIS) prepared for the Justices (General) Regulation 1992.* *Following two unsuccessful attempts made by my predecessor to arrange a meeting between your staff members and officers of the Department of Courts Administration, I understand that a meeting with your officers was eventually held on 22 June 1993.*

At this meeting, I am advised that the various issues of concern raised by your Committee were discussed and that general assistance in the preparation of a RIS was given to officers of the Department of Courts Administration.

I also understand that officers of the Department of Courts Administration informed your staff of a proposal to consolidate all the regulations under the Justices Act into the one regulation. This decision was taken, in consultation with the Parliamentary Counsel's Office, during the re-drafting of the Justices (Transcripts) Regulation which is due for staged repeal on 1 September 1993. It is expected that the consolidation of these regulations will reduce the need to regularly prepare a RIS for small regulations under the Act, and it will also assist in making these various statutory rules easily accessible under the one regulation. The regulations to be consolidated are:

1. *Justices (General) Regulation 1992,*
2. *Justices Act (Use of Written Statements) Regulation 1984,*
3. *Justices (Transcripts) Regulation 1976,*
4. *Justices (Penalty Notices) Regulation 1984,*
5. *Justices (Warrants of Commitment and Fine Enforcement) Regulation 1986, and*
6. *Justices (Public Prosecutions) Regulation 1987.*

Accordingly, in view of the fact that your Committee has requested the preparation of a fresh RIS for the Justices (General) Regulation, it is proposed to repeal this regulation and re-introduce a single regulation consolidating all of the above regulations. A single RIS will then be prepared for this regulation addressing the provisions in the former Justices (General) Regulation together with the provisions in the various other regulations to be consolidated under the proposed Justices (General) Regulation.

I trust that this will meet with your Committee's approval"

COMMENT

The Minister is incorrect in his statement that unsuccessful attempts were made by his predecessor for discussions at officer level. The delay occurred because subsequent amendments had been made to the principal regulation only shortly after its publication and these were being considered by the Committee.

The important matter to be noted arising out of these discussions is that one RIS will be prepared for a number of consolidated regulations. This will preclude the kind of problems that arose with

this present regulation where the regulation was not properly assessed and was dealt with in a piecemeal fashion thus necessitating further amendments.

CONCLUSION

This case indicates the benefit of thorough consideration and assessment of regulatory proposals before they are made. It also shows the usefulness of discussions at officer level to resolve problems of this kind.

REGULATION REVIEW ACT 1987
S. 9(1) Consideration by Committee of Regulations

DESCRIPTION	LANDLORD AND TENANT (RENTAL BONDS) ACT 1977 - REGULATION (Landlord and Tenant(Rental Bonds) 1993)
GAZETTE REF.	1.9.93
COMMENCEMENT	1.9.93
MINISTER	Minister for Housing
OBJECTS	The Committee considered this regulation on 10.3.94. It subsequently wrote to the minister indicating the RIS was defective and that it failed to properly assess the costs and benefits of the regulation and relevant alternatives to the regulation, specifically in the areas of prescribed investments, Clause 4 and the exemptions and exclusions parts of the regulation. Under section 9(1) of the Regulation Review Act 1987, the Committee considers all regulations whilst they are subject to disallowance. If regulations have an adverse impact upon the business community the regulation should be brought to the special attention of Parliament.
THE REGULATION	One of the objectives of this regulation is to repeal and remake the Landlord and Tenant Rental Bonds Regulation with respect to the permissible forms of investment of money held by the Rental Bond Board (Clause 4). Clause 4 is said to permit the Rental Bond Board to invest in the Home purchase Assistance Fund. The Regulatory Impact Statement (RIS) states that this prescribed investment is permissive rather than mandatory and, therefore, is not relevant for assessment of possible costs and benefits.
CORRESPONDENCE	The Committee wrote to the Minister for Housing, The Hon. Mr. R. Webster, on the 16.3.94 outlining its concerns regarding the financial position of Homefund and the appropriateness of future investments in the Fund. The Committee relayed its view that the RIS was defective because it failed to properly assess the costs and benefits of the regulation with respect to the prescribed investments in Part two of the regulation. The Committee recommended that a supplementary impact statement be carried out so as to properly assess the regulation.

In his reply of the 8.4.94, the Minister noted the concerns of the Committee and advised that they would receive careful consideration.

In a subsequent reply of the 4.5.94, the Minister announced that in February, 1994, the Office of Real Estate Services was established to review rental bond legislation as part of its initial work programme.

FOLLOW-UP ACTION BY THE COMMITTEE

Following discussions with the Housing Department, the Office of Real Estate Services, designed to review the rental bond legislation, has only been partially formed. As a result, the matter has not received any attention.

Further follow-up action included the gathering of information relating to funds which have been invested by the Rental Bond Board in Homefund since 1986. Discussions with an auditor from the Auditor General's Office and the Investment Manager of the Rental Bond Board revealed that the $85.3m investment of the Rental Bond Board (1986-1993) is intact in the Home Purchase Assistance Authority. Because it is government guaranteed that investment continues to receive interest. It was not possible for Committee officers to acquire information relating to return on investment.

Whilst the auditor did not argue that an investment in Homefund by the Rental Bond Board had proved to be an inappropriate one, he did highlight the practice of money from the HPAA being used to meet the shortfalls of FANMAC. The Parliamentary Report recently released by the Select Committee upon Homefund and FANMAC points out that FANMAC has incurred serious losses totalling $18m.

The Report of the Select Committee concluded that many existing loans are in serious trouble and that there was every indication that even more serious problems would follow from the mismanagement of the Fund.

CONCLUSION

As a result of preliminary inquiries and in view of the historical and continuing losses of Homefund, there does not appear to be clear public interest justification for the Rental Bond Board to be given power to invest in Homefund.

The Minister in his letter did not attempt to examine the merits of the regulation. Although the Office of Real Estate Services was established in February 1994, it has really accomplished nothing so far and it would probably be unlikely to examine the merits of this specific investment power. As such, the Committee's request that the regulation be examined on its merits will, in all probability,

get lost in the system. The Committee, therefore, wishes to report to Parliament on the unsatisfactory nature of the assessment conducted by the Minister's administrator into this regulatory proposal.

No. 1659A

REGULATION REVIEW ACT 1987
S. 9(1) Consideration by Committee of Regulations

DESCRIPTION	Land Tax Management Act 1956 - Regulation (Land Tax Management Regulation 1992)
GAZETTE REF.	28-8-1992
COMMENCEMENT	1-9-1992
MINISTER	Treasurer
OBJECT	*The purpose of this Regulation is to repeal and remake the Land Tax Regulations.* *The new Regulation makes provision, for the purposes of the Land Tax Management Act 1956, with respect to:* *(a) the declaration of persons or bodies as public authorities; and* *(b) exemptions from land tax in respect of land owned by gas companies; and* *(c) land tax certificates; and* *(d) the prescribed rate of interest payable by the Chief Commissioner on the difference between the land tax paid by an objector and a lower land tax assessed by the Supreme Court.* *This Regulation is made in connection with the staged repeal of subordinate legislation under Part 3 of the Subordinate Legislation Act 1989.*
BACKGROUND	**This regulation was considered by the Committee on 1-4-1993 and it resolved to write to the Premier and Treasurer as follows:** "*The regulatory impact statement accompanying the regulation makes the following statement in regard to the operation of this regulation:* '*<u>Impact Assessment</u>* ***Benefit*** *This provision names the specific bodies declared to be public authorities thereby exempting them from land tax. This ensures that there is no confusion about their land tax liability. It also affects the liability of lessees ie. a lessee of land owned by a public authority is the deemed owner for land tax purposes, but a lease entered into or renewed prior to 1 January 1991 is exempt*

from land tax.

Cost

There are no cost implications, other than the revenue implications of exempting public authorities and taxing lessees (which the Act provides).'

From these statements it appears that the regulation has the affect of exempting those bodies from land tax. However an examination of them suggests each would be exempt on the basis of being Crown bodies. This would mean the only practical function of the list would be to make certain lessees who entered into or renewed their lease, prior to 1 January 1991 exempt from tax under Section 21(C)(6).

However the overall picture is unclear because the list of statutory authorities specified in Schedule 2 to the Public Finance and Audit Act 1983 contains a number of other statutory authorities who would be Crown instrumentalities. These do not appear in the current regulation. This suggests that either they are not exempt from land tax or that they have to demonstrate they are Crown instrumentalities so as to attract exemption under section 21C. It would seem to my Committee that a detailed review should have been made of these bodies to rationalise the position. This is a matter that could appropriately have been examined and explained in the RIS.

An ancillary issue is the affect of the regulation in relation to the Aboriginal Land Rights Act 1983. That Act provides for an annual payment of 7.5 per cent of land tax into the New South Wales Aboriginal Land Council. If the purpose of the regulation is to exempt various bodies from land tax then clearly this reduces the amount that will be payable under the Aboriginal Land Rights Act. This would normally involve prior consultation with the New South Wales Aboriginal Land Council as a statutory function of that Council is to advise the Minister in relation to Aboriginal land rights. Presumably that Council should have been given the opportunity to formally comment on this regulation."

The Treasurer wrote back on 25th June 1993 stating:

"*The Regulation Review Committee has suggested that the statutory authorities listed in Schedule 2 of the Public Finance and Audit Act should have been reviewed when the replacement Land Tax Management Regulation was made in 1992, to determine whether*

or not any of them should have been included in the list of public authorities for land tax purposes.

My Department has advised that it is unable to identify any authority listed in Schedule 2 whose land tax liability would be affected by their being declared as a "public authority". Most currently have no land tax liability because they are either exempt (ie they represent the Crown or they are entitled to exemption under another provision in section 10(1) of the Act), or because they do not own land. A small number of authorities, such as the Sydney Cove Redevelopment Authority, are made liable for land tax by specific provisions in sections 10B to 10F of the Land Tax Management Act, but the Regulations could not be used to override the Act in these cases.

The only result of changing the list of public authorities would be to change the tax liability of leases entered into or renewed between 1 January 1987 and 1 January 1991. If additional authorities were added, there may be a small number of additional exempt leases, although none have been identified by my Department at this stage. If an existing public authority were to be deleted from the list, some lessees would lose their exempt status, although only one such lease has been identified by my Department.

In summary, even if additional authorities had been added to the list of public authorities, the Regulation would have had a negligible impact on land tax revenue. Therefore, the implications for the New South Wales Aboriginal Land Council were also negligible.

Putting aside the negligible impact on revenue for the moment, I do not believe that the Regulatory Review process is the appropriate mechanism to make changes to a lessee's tax liability. Given the requirements of the Subordinate Legislation Act, I therefore propose to seek an amendment to the Land Tax Management Act to transfer the list of public authorities from the Regulation to the Act. This will not affect the land tax liability of any public authority or its lessees. However, it will avoid any potential conflict with the Subordinate Legislation Act, and will ensure that changes affecting a lessee's liability are achieved by amendment of the Act rather than by amendment of the Regulation.

I trust that this action will satisfy the concerns of the Regulation Review Committee. "

CONCLUSION

The Committee sought clarification from Mr Ian Phillips of the Treasury of the Minister's reference to "potential conflict" with the

Subordinate Legislation Act. He advised that the Treasury now believes that, in view of its importance, land tax liability is a matter that should appropriately be dealt with by the Land Tax Management Act itself rather than be left to a regulation. There is in fact no potential conflict with the Subordinate Legislation Act.

DESCRIPTION	MUSEUM OF APPLIED ARTS AND SCIENCES ACT 1945 - REGULATION (Museum of Applied Arts and Sciences Regulation 1992)
GAZETTE REF.	21-8-92
COMMENCEMENT	1-9-92
MINISTER	for the Arts
OBJECT	The object of this Regulation is to replace the regulations under the Museum of Applied Arts and Sciences Act 1945 in connection with their staged repeal under the Subordinate Legislation Act 1989. The Regulatory Impact Statement for the regulation was found to have the following defects: OBJECTIVES: The objectives are a statement of what the regulation deals with rather than what is sought to be achieved and the reasons for them as required under section 5 and schedule 2(1)(a) of the Subordinate Legislation Act. OPTIONS: No alternative options are identified in this section of the RIS, nor is the mandatory "do nothing" option. The impending staged repeal of the regulation is used as justification for this. This is a major departure from schedule 2 the Act which requires in clause 1(b) an identification of the alternative options by which the objectives can be achieved. The RIS deals with the options as follows: "*b) <u>Alternative options to achieve objects</u>: The matters that the proposed Regulation deals with can only be dealt with at this time by making a new regulation, as the present regulation will be repealed on 1 September 1992. In the future it may be possible to have matters dealt with by the Regulation in an Act of Parliament.*" The whole purpose of the staged repeal process was to compel consideration and assessment of alternatives before the repeal date. The statement in the RIS is therefore a repudiation of this purpose.
POSTPONEMENT	Under section 11 of the Subordinate Legislation Act repeal can be postponed by the Governor for a maximum of five years in appropriate cases. The Minister's Department could have applied for this postponement instead of preparing this defective RIS. However, as the listing of this regulation for staged repeal has been current since the

Subordinate Legislation Act was passed in 1989 it is difficult to see how a proper RIS could not have been completed within those three years without the need for postponement.

IMPACT ASSESSMENT

Contrary to Schedule 2(1)(c) and 2(2) of the Subordinate Legislation Act there is no quantification of the costs and benefits of the regulation or its alternatives. Instead the following unquantified statements are made:

c) An assessment of the costs and benefits of the proposed Regulation: As discussed the benefits of the proposed Regulation are that it deals with matters instrumental to the control, management, maintenance and administration of the Museum and the proceedings of the trustees and not dealt with by the enabling Act.

d) An assessment of the costs and benefits of each alternative option: As discussed the only alternative option is for the matters dealt with by the proposed Regulation to be incorporated in the enabling act. This would have the benefit of having all the matters dealing with the control, management, maintenance and administration of the Museum as well as regulating the proceedings of the trustees incorporated into one legislative instrument.

However, the trustees and the management of the Museum would be prejudiced by the fact that the time consuming and costly process of revising the enabling Act could not be accomplished before the present regulations are repealed on 1 September 1992.

e) An assessment as to which of the alternative options involves the greatest net benefit of or the least net cost to the community:

Mere reference to these costly processes without further elaboration and quantification is a departure from the requirements of the Act.

CONSULTATION

Given the Museum's ability to promote its activities more direct public consultation should have been conducted. No persons outside the administration were directly consulted. The public were only invited to comment by newspaper advertisement and no submissions were received.

In the light of these major defects in the RIS the Committee requested the Minister to prepare a

proper RIS taking into account the above comments and seek more direct public consultation through the Museum.

MINISTER'S RESPONSE

The Ministry for the Arts responded on 14th April 1993, advising that the Museum had considered the comments of the Committee and had completed a revised Regulatory Impact Statement as requested and would undertake a full consultation programme.

MINISTERS 2ND RESPONSE

On 19th November, 1993, the minister advised as follows:

"I am writing to you in relation to the Regulation made under the *Museum of Applied Arts and Sciences Act 1945.*

As requested by the committee, the museum has prepared a new regulatory impact statement (copy attached). It concluded that Clause 19 of the Regulation relating to the banking of money should be deleted as there are equally effective financial controls available to the Museum by way of the *Public Authorities (Financial Arrangements) Act 1987.*

As I intend to take a submission to the Cabinet to revise the museum of Applied Arts and A\sciences Act I will not seek a direct amendment of the Regulation at this stage.

The Museum notified a broad range of individuals and organisations of the availability of the Regulation and the RIS, and the opportunity to comment. However, no submissions were received.

I look forward to your favourable consideration of this matter and trust that the museum has met all requirements of the *Subordinate Legislation Act 1989.*"

NEW RIS: OBJECTIVE

The objectives of the regulation as stated in the new RIS are as follows:

> "To assist in ensuring that the staff, buildings, exhibits and financial assets of the Museum of Applied Arts and Sciences are managed so as to conserve and enhance the value of the Museum to the community while permitting visitor access to exhibits in a way which engages their interest and involvement thus promoting knowledge and appreciation of the art or science represented.

OPTIONS:

The following options are identified:

4.1 Definition of the Major Alternatives to the Proposed Regulation

The major alternatives to the proposed Regulation are summarised as follows:

- Do Nothing;
- Security screen all Exhibits from visitors in place of PART 4;
- Provide electronic security devices for all Exhibits in place of PART 4;

- Depend on current government legislative provisions regarding the management of public finances for financial control in place of PART 5.

No alternatives to PARTS 2 and 3 have been identified.

I M P A C T ASSESSMENT:

The proposed Regulation and each of the alternatives are assessed on the basis of tangible and intangible and direct and indirect costs and benefits where these have been identified. Some of the costs have been quantified.

Following the impact assessment, all of the substantive provisions of the Regulation were confirmed as the preferred options except for part 5 which concerns banking. It was found in relation to part 5 that the alternative of relying on the Public Finance and Audit Act provisions and the Treasurer's guidelines was more effective than making a separate provision for banking in the Regulation.

CONSULTATION:

The consultation programme is summarised as follows in the RIS:

6.4 Individuals and Organisations Who will be Invited to Comment on the RIS

The availability of the Regulatory Impact Statement will be advertised in the following publications:

- Sydney Morning Herald
- NSW Government Gazette
- Museum's internal staff publication, Short Circuit, June, 1993 edition
- Museum's quarterly corporate magazine, Power Plus, July, 1993 edition
- Museum's quarterly members' magazine, Powerline, August, 1993 edition.

Notices will be placed in the main foyer of the Powerhouse Museum and the members' lounge in the Powerhouse Museum.

Written advice will be forwarded to the Museums Association of Australia Incorporated (NSW Branch).

A copy of the Regulation and/or the RIS will be sent to all persons who respond to the notices.

CONCLUSION:

The preparation of a further RIS was justified as it ensured a more effective public consultation programme for this and future cases as well as eliminating a duplicatory part of the regulation.

DESCRIPTION	PROPERTY STOCK AND BUSINESS AGENTS (GENERAL) - REGULATION 1993 - VALUERS REGISTRATION REGULATION
GAZETTE	1993 (Gazette of 27-8-93 at pp.4977 and 5074)
MINISTER	for Housing
OBJECTIVES	The Committee considered these Regulations on 17 February 1994. The Regulatory Impact Statement (RIS) for these regulations were prepared in a similar manner. The objectives of the Regulations are not set out concisely in the RIS's instead the objectives of the Acts are described, followed by a statement of the enabling provision and a summary of each of the parts of the regulations.
OPTIONS	There is no statement of the options for achieving the objectives of the Regulations as required under the Subordinate Legislation Act. Instead the RIS's contain a detailed explanation of each of the parts of the Regulations which is mainly a comparison with the repealed Regulations.
COST BENEFITS	The costs and benefits of the regulatory proposals as compared with the costs and benefits of alternative options are not stated. In the statement of each part of the regulations, occasional statements are made about the cost implications of particular clauses. However only some of these statements are quantified.
CONSULTATION	The Committee noted that consultation took place with representatives of Industry Associations, Education organisations and the various levels of government and as a consequence of their submissions amendments were made to the draft Regulations. However the Committee considered the RIS's would have achieved far better results if alternative options had been presented in the RIS's and assessed with the Regulation as to the respective costs and benefits rather than leaving it to the public to present alternative options in the consultation process. In view of the major failure in the RIS's to identify alternative options and to assess the respective costs and benefits the committee requested that the Minister prepare new RIS's which comply with the Subordinate Legislation Act. Depending on what the RIS's reveal a decision would then need to be made by the Department on whether to seek further comments from the public.
M I N I S T E R ' S RESPONSE	In his letter of 27 May 1994 the Minister for Planning and Housing advised as follows: "I refer to your letter of 29 April 1994 concerning the Property, Stock and Business Agents (General)

Regulation 1993 and the Valuers Registration Regulation 1993.

I have noted the comments by the Regulation Review Committee regarding the Regulatory Impact Statements (RISs) which were prepared in respect of the Regulations, and the request to prepare new RISs.

The Regulatory review was undertaken over a period of eleven months. The Regulations were subject to the scrutiny of the Parliamentary Counsel's Office and the NSW Cabinet Office before an Opinion was given they could be legally made on 1 September 1993.

The Council undertook an exhaustive programme of consultation with industry, consumers and government. The Council's clients were highly appreciative of the RISs and the consultation process, and in general were more interested in the form of proposed regulations rather than detailed costings of alternatives to regulations.

Before making final determinations on the form of the regulations the council, which comprises industry and consumer representatives considered an assessment of the costs and benefits of four options in achieving the objectives set out in paragraph 5.3 of the Agent RIS and paragraph 5.5 of the Valuer RIS. Option Two which recommended remaking a revised regulation resulted in the greatest net benefit to the community. A copy of the cost benefit analysis is attached for your information. for these reasons, I do not see the necessity for further public comment on the proposals of the regulations.

The Council is presently conducting a comprehensive review of the Property, Stock and business Agents Act 1941. The review is being undertaken as part of the government's commitment to reducing regulatory burdens on industry. Due to the age and inadequacies of the present Act the Inquiry by Commissioner Mant into Customer Service Bodies within my portfolio also recommended the immediate review of the property, Stock and Business Agents Act 1941.

A proposal is also well advanced to rewrite the Valuers Registration Act, incorporating a co-regulatory approach to this sector of the real estate industry.

The Council is presently involved in the implementation of trust account reforms arising out of the Property, Stock and Business Agents (Amendment) Bill 1994 which was passed by Parliament on 4 May 1994.

In view of the above I am concerned the rewriting of the RISs would involve considerable resources and interfere with the Council's regulatory review process.

Whilst I appreciate the Regulation Review Committee's role in reviewing new rules it would be more helpful to the consultation process if the external scrutiny occurred prior to release of the RISs. The Regulations have been in place for over seven months without any difficulties and I do not believe redrafting the RISs at this stage would be of any benefit.

You may be assured your comments will be borne in mind in future preparation of Regulatory Impact Statements."

CONCLUSION

The Minister believes it would be too costly to prepare new RISs in the light of the current review of the principal Acts. This is not an uncommon response as it is usually the case that departments are conducting ongoing reviews of their principal legislation.

The Minister also states that it would be more helpful if the external scrutiny by the Committee occurred prior to the release of the RISs.

If the Committee were to take this role it would prevent proper scrutiny when the regulations are made. The regulations in their final form might be vastly different than at the RIS stage. It is the role of the Committee to ensure that all public submissions have been appropriately considered before the regulation is made. It could not exercise this role of scrutiny were it at an earlier stage.

Finally, under the separation of powers doctrine, it is the role of the Executive to make regulations and Parliament's function to review them once made.

The Committee resolved to ask the Minister to provide a timetable for the review of the principal Acts.

No. 1538B

REGULATION REVIEW ACT 1987
S. 9(1) Consideration by Committee of Regulations

DESCRIPTION	WATER BOARD ACT 1987 - WATER BOARD (TRADE WASTE REGULATION 1989)
GAZETTE REF.	No. 55, 5-5-89 p. 2648
MINISTER	for Planning and Minister for Housing
OBJECT	Clause 10 of this regulation enables the Board to cancel or suspend a permission to dispose of waste if the holder has contravened any condition of the permission or for any other cause the Board considered sufficient. These conditions may be imposed as the Board thinks fit in terms of clause 7 (1) of the regulation. The Committee was concerned that no reason for cancellation or suspension need be given by the Board and that there are no rights of appeal against this action by the Board. The Committee accordingly requested the Minister amend clause 10 of the regulation to provide for reasons to be given for cancellation or suspension and provide for some appeal mechanism from that action.
M I N I S T E R ' S RESPONSE	The Minister for Planning and Minister for Housing responded on 2nd March 1993 stating that the section was essential and that an appeal could be made to the Minister or action taken by the Ombudsman or ICAC. The Committee responded as follows: *"I refer to your letter of 2nd March 1993 regarding Clause 10 of the Water Board's Trade Waste Regulation, 1989.* *The informal appeal to the Minister and the possibility of action by the Ombudsman or ICAC you refer to are no substitute for a right of appeal built into the regulation. Furthermore the costs of a more formal Supreme Court challenge would be prohibitive for most small businesses. The problem in New South Wales is that as yet there is no inexpensive and simple appeal mechanism against administrative decisions, such as the Federal Administrative Appeals Tribunal.* *It is accordingly important that the grounds for cancellation be built into the regulation, not merely the agreement as at present. In the present case the Committee recommends the adoption of*

specific factors for cancellation or suspension in clause 10 of the regulation.

The Minister for Planning and Minister for Housing responded on 24th June 1993 as follows:

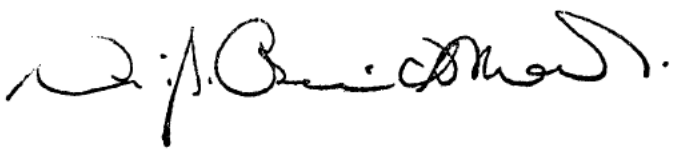
"*For the reasons stated in my letter of 2nd March, 1993, the provisions of the Regulation are appropriate with respect to the functions, liabilities and responsibilities of the Water Board. While your concerns are appreciated, a right of appeal against a decision of the Water Board appears to be inappropriate and unnecessary based on the need for the Water Board to comply with licensing restrictions imposed on it by the Environmental Protection Authority under Section 17D of the Pollution Control Act. That is not to say that the Regulation cannot be improved.*

Accordingly, in view of your recommendation that specific factors for cancellation or suspension should be included in clause 10 of the Regulation, the Water Board has begun a comprehensive review of the Regulation for purposes of including in the Regulation those factors as well as matters currently dealt with in clauses 7, 8 and 11 of the model Trade Waste Service Agreement.

I appreciate your efforts to improve the application and operation of the Regulation. I will keep you informed of developments in the review of the Regulation where appropriate."

CONCLUSION

Despite the Minister's assurance the Committee has not been advised of any changes to the regulation.



Adrian Cruickshank
Chairman
Regulation Review Committee